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In the Matter of)

Implementation of the Local)
Competition Provisions of the)
Telecommunications Act of 1996)

CC Docket No. 96-98

**American Public Communications Council's Opposition To
Sprint's Petition For Limited Reconsideration
And/Or Clarification**

Albert H. Kramer
Robert F. Aldrich
Christopher T. McGowan
Dickstein Shapiro Morin & Oshinsky LLP
2101 L Street, N.W.
Washington, DC 20037

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American Public Communications Council ("APCC"), by its attorneys,
respectfully submits its opposition to Sprint's Petition for Reconsideration in the
above-captioned proceeding ("the Order").

**Independent Payphone Providers Acting as Resellers are Entitled to the
Wholesale Discount Rate for Payphone Lines**

In its Petition for Reconsideration Sprint asks that the Commission reconsider its
decision in paragraph 875 of the Order, which states that Section 251(c)(4), of the
Communications Act enables telecommunications carriers to obtain payphone lines and

associated exchange service¹ at a wholesale discount rate for resale to payphone providers.² Sprint also points out that the Order disallows any attempt by IPP providers to obtain wholesale discounts on lines to their own payphones.³

Sprint contends that ILECs have no way to ensure that IPP providers do not pose as telecommunications carriers in order to improperly resell lines to themselves. Sprint argues further that payphone lines are more similar to access facilities than retail services and therefore should not properly qualify for the wholesale discount in the first place. Therefore, Sprint urges the Commission to reconsider and exclude payphone line service entirely from eligibility for wholesale discounts.

Sprint's first contention that "it is impossible for an ILEC to know whether a carrier that is also a payphone provider is connecting a payphone line to one of its own phones or a phone owned by a wholly independent party"⁴ is no more true for payphone providers than it is for any other party. Any retail customer could potentially pose as a reseller in order to obtain lines at wholesale for its own use since IPP providers have no more ability to "game the system" in this respect than any other customer. LEC services to IPPs cannot be excluded from eligibility for wholesale rates as this basis.

¹ These lines and associated exchange services are provided by LECs to independent public payphone ("IPP") providers under various tariffed names such as "public access line" ("PAL") service or "customer owned coin-operated telephone" ("COCOT") service.

² Sprint Petition for Reconsideration at 10.

³ Id.

⁴ Id.

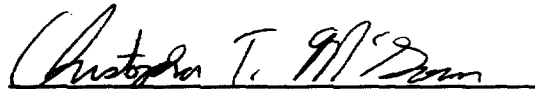
Sprint's second argument is also without merit. Sprint claims that payphone line service more closely resembles access service than retail service, and therefore should not be eligible for wholesale rates in the first place. This is simply not supported by facts. IPP providers are nearly indistinguishable from other retail customer users. There is no payphone proceeding where the Commission has ever determined that payphone lines are "given" to access service. Rather, the Commission has uniformly ruled that IPP providers are "end users" and are required to pay end user common line charges.⁵ Moreover, for IPP providers, there is rarely any aggregation of circuits as there would be in access service. Typically, every payphone line is provided as a separate line -- and often billed on a separate bill an arrangement that has all the attributes of retail service. Accordingly, the Commission should deny reconsideration of its ruling that Section 251(c)(4) allows resellers to obtain services from ILECs at wholesale rates in order to resell the service to IPP providers.

Lastly, Sprint appears to request, in the alternative, a ruling that a reseller that also provides payphones should be disqualified from reselling payphone line service to its own payphone. This request also should be denied. As long as a reseller is genuinely providing service to other retail customers, it would serve no purpose to disqualify the reseller from "retailing" service to its own telephones.

⁵ C.F. Communications Corp. v. Century Telephone of Wisconsin, Inc., Memorandum Opinion and Order, 10 FCC Rcd 9775 (1995), petition for review filed, C.F. Communications Corp. v. FCC and United States, No. 95-1563 (D.C. Cir. filed Nov. 6, 1995)

The Commission has concluded that IPP providers may not obtain customer-owned-currency-operated ("COCOT") services at wholesale rates if they are not true "telecommunications carriers."⁶ However, if a reseller happens to be an IPP provider as well, the reseller should not be disqualified from reselling to its own payphones as well as to other IPP providers.

For the foregoing reasons, we ask that the Commission deny Sprint's Petition for Reconsideration.



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